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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/899,780

07/05/2001

Gary W. Wood

70012590-04

5013

27910

7590

01/15/2003

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EXAMINER

HARRIS, ALANA M

ART UNIT

PAPER NUMBER

1642

DATE MAILED: 01/15/2003

8

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/899,780

Applicant(s)

WOOD, GARY W.

Examiner

Alana M. Harris, Ph.D.

Art Unit

1642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 November 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-17 and 19-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-17 and 19-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____. |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>3</u> . | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I (claims 13-17 and 19-22) in Paper No. 5, received November 4, 2002 is acknowledged.

2. Claims 13-17 and 19-22 are pending.

Claims 1-12 and 18 have been cancelled.

Claims 13-17 and 19-22 are examined on the merits.

Priority

3. This application appears to be a division of Application No. 09/412,681, filed October 5, 1999 as listed in the preliminary amendment Applicant submitted August 15, 2001. However, the current status of the application is not set forth in the first line of the specification. Applicant is requested to amend the first line of the specification including the parent application's current status and as U.S. Patent number 6,406,699 issued June 18, 2002.

Oath/Declaration

4. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because: the application number and filing date is not listed on the declaration. Also amiss is the listing of prior application

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09/412,681 filed October 5, 1999, now U.S. Patent number 6,406,699 issued June 18, 2002, which the Applicant claims domestic priority under Title 35, United States Code §120.

Drawings

5. The drawings are objected to because of reasons cited on attached form PTO 948 completed by draftsman. Correction is required.

Specification

6. The use of the trademarks COMPAZINE®, BENADRYL®, TYLENOL® and DEMEROL® have been noted in this application. They should be capitalized wherever these words appear and be accompanied by the generic terminology. Also noted in the instant application are the trademarks VIACELL® (page 17, line 10), LEUKINE® (page 17, line 17) and PROLEUKIN® (page 19, line 10) that are not denoted as such.

Applicant is advised to review the entire specification for similar errors.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner, which might adversely affect their validity as trademarks.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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8. Claims 19-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. Claims 19-22 are indefinite because it references cancelled claim 18. The limitations of claim 18 will be examined in regard to claims 19-22. However, correction is required.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 13-17 and 19-22 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent number 5,766,920 (issued June 16, 1998/ IDS reference). U.S. Patent #5,766,920 discloses a process of producing a population of immunoreactive cells, polyclonal T cells that exist in a primed state of activation and have enhanced immunologic effector function, see column 2, line 11-column 3, line 16. "The process involves removing a patient's mononuclear cells and exposing the cells in vitro to substances which enhance the immune function of the cells", see column 2, lines 15-18. The mononuclear cells may also be derived from tumor or tumor-draining lymph node, see column 2, lines 42-44. The mononuclear cells, such as peripheral blood mononuclear cells (PBMC) are contacted with OKT3 (art known and the same as anti-CD3) to yield a population of immunoreactive cells, see column 2, lines 23-36,

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column 3, lines 44-49. The immunoreactive cells are further exposed to an immune stimulant such as an antigen, an inflammatory molecule or a cytokine, such as granulocyte macrophage-colony stimulating factor (GM-CSF) and interleukin-2 (IL-2) in vitro to yield a population of immunoreactive cells, see column 3, lines 6-12 and column 5, lines 2-16; 47-63. The PBMC were obtained from patients by leukopheresis, see column 9, lines 25-27.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alana M. Harris, Ph.D. whose telephone number is (703) 306-5880. The examiner can normally be reached on 6:30 am to 4:00 pm, with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Caputa, Ph.D. can be reached on (703) 308-3995. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4315 for regular communications and (703) 308-4315 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0196.

ALANA HARRIS
PATENT EXAMINER



Alana M. Harris, Ph.D.
January 13, 2003